Single Bench

(3)

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P.NO. 99 / 2005

Petitioner

Kumar Netam
S/o Gopi Netam,
Aged about 39 years,
Caste Gond (S.T.),
R/o Village Buddu Bardha,
Post : Arjuni,
Tah : Dongargaon,
Dist : Rajnandgaon-(C.G.)

Versus

Respondents :

1. State of Chhattisgarh,
Through The Secretary,
Panchayat & Development of Urban / Local Administration, Mantralaya,
D.K.S Bhawan, Mantralaya,
Raipur-(C.G.)

2. The Chhattisgarh State Election Commission, Through Its Secretary / Commissioner Mahanadi Khand,
Mantralaya, Parisar, Raipur-(C.G.)

3. The Collector,
Dist : Rajnandgaon-(C.G.)

4. The S.D.O.
Janpad Panchayat Dongargaon,
Dist : Rajnandgaon-(C.G.)

5. Chotelal S/o Ramdas
Aged about 26 years,
Village Buddu Barda,
Post - Arjuni,
Tahsil Dongargaon,
Dist : Rajnandgaon-(C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

(56)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 99/ सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

14.1.2005

On a mention being made, the case is taken up for hearing.

Shri Deepak Jain, counsel for the petitioner.

Shri N.K. Agrawal, Deputy Advocate General for the State/ respondents No.1, 3 and 4.

Heard on admission.

By the instant writ petition under Article 226/227 of the Constitution of India, the petitioner seeks to challenge the order dated 31.12.2004 passed by the Sub Divisional Officer (respondent No.4), whereby respondent No.4 approved the action of the Returning Officer rejecting the nomination paper of the petitioner herein on two grounds i.e. (i) the petitioner has encroached upon the Government land as a result of which a case was registered against the petitioner in which fine was imposed on 16.7.2003 in revenue case No.81/A-68/02-03; and (ii) the petitioner was not able to file any proof showing that he belongs to Scheduled Tribe category, and in one of the criminal cases the Chief Judicial Magistrate not considering the petitioner as Scheduled Tribe discharge the accused under the Scheduled Cates and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The order passed by the Returning Officer and approved by the revisional authority under Rule 36 of the Chhattisgarh Panchayat Nirvachan Niyam, 1995, prima facie cannot be said to be without any

Gr. PRJ—FS/350—12/2000—50,000.

(57)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.99/ सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	basis. In the instant matter, disputed facts are involved which cannot be adjudicated in the writ jurisdiction. Therefore, I am of the opinion that it is not a fit case in which the extra ordinary jurisdiction under Article 226 of the Constitution of India be exercised. If the petitioner has any grievance, he is within his right to file election petition against the impugned order. The petition is therefore, liable to be dismissed and it is accordingly, dismissed, at the admission stage itself. Consequently, M.(W.)P.No.88/2005 and I.A.No.242/2005 stand disposed of. **Sd/-** **L.C. Bhadoo** **Judge**	
Soma		

Gr. PRJ—FS/350—12/2000—50,000.

25/05

19/1/1.05